

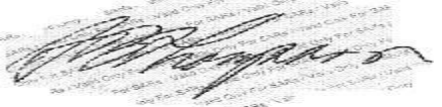


KANSAS DEPARTMENT OF CORRECTIONS

	INTERNAL MANAGEMENT POLICY AND PROCEDURE	SECTION NUMBER 12-124	PAGE NUMBER 1 of 8
		SUBJECT: SECURITY AND CONTROL: Inmate Drug Abuse and Intoxicants Testing	
Approved By:  Secretary of Corrections		Original Date Issued:	07-23-90
		Current Amendment Effective:	06-18-10
		Replaces Amendment Issued:	02-26-10
Reissued By:  Policy & Procedure Coordinator		The substantive content of this IMPP has been reissued as per the appropriate provisions of IMPP 01-101. The only modifications within the reissue of this document concern technical revisions of a non substantive nature. Date Reissued:	
		07-15-11	

POLICY

Consistent with the mission statement of the Department, which is to promote public safety, incarcerated offenders shall be closely monitored and/or tested by trained personnel for the use of illicit drugs and/or intoxicants. Drug testing of offenders, combined with appropriate sanctions and treatment is an effective means of suppressing drug use, drug trafficking, and drug related infractions. Any inmate shall, upon request of an authorized staff member, submit to drug abuse or intoxicant testing to determine if the inmate is using contraband drugs or intoxicants. All tests shall be conducted by either trained KDOC personnel, or by certified laboratories. Refusal to submit to testing shall be subject to disciplinary action. Drug screening tests shall not be conducted for purposes of harassment. (ACI 3-4269) When test results indicate an offender's use of illicit substances, the results shall be documented and with limited exceptions, a disciplinary report written. Additionally, counseling/treatment intervention may be implemented, if appropriate.

Offenders on post-incarceration supervision status shall be tested in accordance with the provisions of IMPP 14-112.

Offenders testing positive for the use of illicit drugs using urine sample screening, shall be assessed a fee of five dollars and thirty-five cents (\$5.35) for each drug testing positive. Additionally, if a laboratory fee is incurred as the result of a positive confirmation test, the offender shall be assessed a fee for these as well. The staff person(s) responsible for drug testing at the facility shall be responsible for notifying the inmate and facility accounting office of the exact amount of any laboratory fee incurred so that this money may be withdrawn from the offenders account. If alternative drug testing methods are used and the offender tests positive for the use of illicit drugs, the offender shall be assessed a fee of \$60 for the hair test, \$11.75 for the on-site oral fluids test **and** \$30 for each drug of the oral fluids test that is confirmed positive by laboratory testing. Inmates refusing to participate in a treatment program per section V A 1 (a) of this policy and those inmates without a substantiated physiological or psychological disorder that are unable to produce a urine specimen within 150 minutes (2.5 hrs) shall be responsible for the cost of alternative drug testing, whether the result is positive or not. Those offenders that refuse drug testing shall be assessed a fee of \$5.35. All fees collected shall be payable to the Kansas Department of Corrections.

DEFINITIONS

Alternative Drug Testing Methods: Methods other than urine testing used to test for the use of illicit drugs. KDOC approved alternative drug testing methods are oral fluids and hair testing.

Certification: The completion of the course of instruction necessary to prepare an individual to train others to train operators of the testing equipment.

Contraband: Any item, which has not been approved for introduction into a correctional facility by law, regulation, or policy.

Expiration Date: The date after which a reagent cannot be used to produce a valid test.

G.C.M.S. Testing: G.C.M.S. testing identifies the existence of certain controlled substances via its reliance upon the combined sciences of Gas Chromatography and Mass Spectrometry. Gas Chromatography is an analytical separation method in which chemical components are separated by a combination of three mechanisms: partition, adsorption and volatility (differences in boiling points). The chemical components are then identified through the use of a mass spectroscope. This analysis is conducted only by a professional laboratory certified in the use of these combined sciences.

Inmate: A person who has been sentenced to the custody of the Secretary of Corrections who is currently assigned to a KDOC facility, contract facility, or housed in another state pursuant to the Interstate Corrections Compact. This also includes persons from other jurisdictions who are housed in KDOC facilities pursuant to the Interstate Corrections Compact.

Minimum Thresholds: The minimum thresholds for urine screening, by category of substance and type of test performed, shall be as follows:

Table 1		
Drug	EMIT/Onsite Screen	GC/MS Confirmation
Amphetamine	300	150
Methamphetamine	1000	150
Benzodiazepines	200	150
Cannabinoids	40	2
Cocaine	100	30
Opiates	100	120
Oxycodone	100	120

Negative Control: A test specimen for certain drug detection systems.

Offender: A person who is in the legal custody of the Secretary of Corrections. This term refers to both inmates and persons under post-incarceration supervision.

Random selection: Selection, which lacks a definite plan or pattern, composed of inmates or activities of a given set, each of who has an equal probability of being selected.

Specificity: The ability of the test to detect the compounds for which the test is intended, while not cross-reacting with undesired compounds.

Training: Instruction in the actual operation of the test equipment.

Treatment: Contracted substance abuse services provided to offenders including, but not limited to, therapeutic community, intermediate inpatient, reintegration, relapse prevention, outpatient counseling, and after care.

PROCEDURES

I. Applicability

- A. While all inmates are subject to drug abuse and/or intoxicant testing, the drug screening program shall target the following:
 1. Inmates suspected of contraband drug usage and/or being under the influence of alcohol or drugs.

2. High-risk group including:
 - a. Inmates with a history of drug or alcohol abuse.
 - b. Groups of inmates by living/work/program assignment where a pattern of drug and/or alcohol abuse is discovered.
 - c. Inmates whose custody/program increases the potential for contact with contraband drugs and/or alcohol (includes furloughs, work release, and community work assignments).
3. Except as provided below under sub procedure I.A.3.a., each month, a computer random listing, generated by OMIS, shall be used to identify no less than five percent (5%) of the Department's inmate population to be tested for drug use during that month.
 - a. On and after April 1, 2010, the computer random listing, generated by OMIS, shall be used to identify no less than two percent (2%) of the Department's inmate population to be tested for drug use during that month.
4. Offenders receiving treatment in therapeutic community or intermediate inpatient treatment shall be subject to random testing, but each inmate in the TC shall be tested at least every 90 days. Those involved in other treatment programs shall likewise be subject to random testing, and shall be tested at least once per 120-day review cycle.

II. Testing Authorization

- A. The shift supervisor, acting as the warden's designee, may authorize a drug abuse and/or intoxicants test for any inmate or group of inmates. (ACI 3-4269)

III. Sample Collection

- A. Sample collection shall be conducted by trained personnel in accordance with the following:
 1. The collection area shall be clean, sanitary, and out of the public view.
 2. Only new, leak-proof containers designed for the purpose of urine collection shall be used.
 3. The officer or staff member observing the urination shall be the same gender as the test subject.
 4. Before being tested, inmates shall be thoroughly searched including a visual examination of the groin area for foreign objects or materials.
 5. The inmate shall wash hands prior to giving the urine sample.
 6. Information regarding the test shall be logged in a drug-screening log, which provides the following information:
 - a. Inmate's name;
 - b. Inmate's number;
 - c. Date the sample is taken;
 - d. Time the sample is taken;

- e. Specific drugs to be tested for; and,
 - f. Name of staff witness(es).
7. The inmate's name, number, date and time the sample was produced shall be recorded on an identification label/tape and placed on the container
- a. The officer or staff member collecting the sample shall verify the identity of the subject inmate by checking the inmate's I.D. badge against the drug screening log and label/tape placed on the sample container, and shall require the inmate to initial the label/tape.
8. Inmates shall be under continuous observation until the sample is collected.
- a. Inmates shall be required to provide a urine sample of sufficient quantity to meet the testing requirements as specified by either the test manufacturer or any laboratory, which regularly performs the analysis of urine samples submitted by the facility, and to initial the tape sealing the urine sample container.
9. To the extent possible and in accordance with general orders, the actual urination shall be observed for possible attempts by the inmate to dilute or contaminate the sample.
10. A chain of evidence form shall accompany the urine sample at all times.
11. As each sample is received, the inmate's name, number, date, and time the sample was produced shall be recorded on a tape and the tape placed on the sample container.
12. All samples not tested immediately shall be sealed with evidence tape.
13. Samples not immediately tested shall be placed in a designated refrigerator. This refrigerator shall be lockable and access shall be by authorization of the warden or designee only.
14. In the event an inmate claims to be unable to provide a urine sample, the following action shall be taken:
- a. The inmate shall be taken to a designated area and kept under continuous observation until the requested sample is provided;
 - b. As soon as practical, the inmate shall be provided 16 oz. of plain water.
- [1] Inmates shall be advised that they may submit a request to the medical/mental health provider requesting to be screened to determine if a physiological or psychological disorder prevents the inmate from providing a urine sample under the conditions outlined in this policy.
- [2] If medical or mental health staff substantiate that a physiological or psychological disorder prevents the inmate from providing a urine specimen, the inmate's name shall be placed on an "Alternative Drug Test List".
- [3] If it is determined that the inmate does not have a substantiated physiological condition or psychological disorder preventing the inmate from producing a urine sample, the inmate shall produce a urine sample within 150 minutes:

- [a] If a sample is not produced, an alternative test method shall be used at the inmate's cost.
- [b] If the alternative test result is negative, the inmate has overcome the presumption created in K.A.R. 44-12-312(d), and therefore any disciplinary report charging the inmate with said violation shall be dismissed with prejudice.
- [c] If the alternative test result is positive, the inmate shall be charged with violation of K.A.R. 44-12-312.
- [d] If the inmate does not produce a sample within 150 minutes and refuses an alternative test method, the inmate shall be subject to a disciplinary report for 44-12-304 Disobeying orders and 44-12-312(d), as the inmate's conduct has raised the presumption of substance use.
- [e] If the inmate claims to have a substantiated physiological condition or psychological disorder preventing the inmate from producing a urine sample, and fails to provide a sample, but cannot provide satisfactory documentation of the condition or disorder from a duly-licensed professional when requested to do so, then the inmate shall be subject to a disciplinary report for 44-12-304 Disobeying orders.

IV. Drug Testing Procedures

- A. Drug abuse testing shall be conducted only by either personnel trained in the use of the approved detection system, or by personnel employed by a certified laboratory.
 - 1. Certification and Documentation of training in the use of the approved drug detection system currently in use shall be maintained in the operator's training record.
 - 2. Certification shall only be accomplished through training from the manufacturer and/or distributor of the drug detection system product.
- B. On and after June 1, 2010, drug testing shall consist of a 7 panel protocol approved by the Deputy Secretary for Facilities Management that shall test for the presence of the following substances:
 - 1. Cannabinoids;
 - 2. Cocaine;
 - 3. Opiates;
 - 4. Amphetamine;
 - 5. Methamphetamine;
 - 6. Benzodiazepine; and,
 - 7. Oxycodone.
- C. If an inmate tests positive through the use of the approved KDOC drug detection system, a disciplinary report shall be issued for violation of KAR 44-12-312A.
 - 1. Following service of a disciplinary report, the inmate shall be advised of the availability of GCMS confirmation testing.

2. The inmate may request GCMS testing by completing a Drug Test Waiver and Agreement (attachment A)
 3. The inmate's request for GCMS confirmation shall be conveyed to the disciplinary Hearing Officer.
 - a. A continuance shall be granted pending GCMS confirmation.
 4. If the GCMS test result is positive for drug usage, the inmate shall pay the cost of the testing.
 5. If the GCMS test result is negative, the facility shall pay the cost of the testing.
 6. The disciplinary hearing shall continue upon receipt of the GCMS confirmation.
- D. Samples which have tested positive under the KDOC approved drug detection system shall be frozen and retained at the facility until final resolution of any disciplinary action.

V. **Alternative Drug Testing Methods**

- A. The department shall utilize drug-testing methods other than urinalysis when urine collection (using procedures and timeframes set forth in this policy) is not possible due to an inmate's substantiated physiological condition or psychological disorder or when an alternative drug testing method can more reliably detect illicit drug use. When alternative drug testing methods are used, staff must be trained in the use of the specific alternative drug testing methods employed before performing the test or collecting the sample.
1. Inmates that have been identified as having a substantiated physiological condition or psychological disorder that precludes them from providing a urine sample shall be offered a treatment program specific to the treatment of the identified physiological condition or psychological disorder.
 - a. If an inmate refuses to participate in the treatment of the condition or disorder, he/she shall be tested using alternative drug testing methods and shall be responsible for all costs associated with the testing regardless whether the test is positive or negative.
 2. The health care provider shall make available to each facility an "*Alternative Drug Test List*" identifying those inmates with a substantiated medical or psychological condition that prevents urine collection under conditions outlined in this policy. This list shall include only the name (s) and number of the inmate(s), not the specific medical or psychological condition. The health care provider shall update the *Alternative Drug Test List* as needed
 3. Inmates whose name appears on the *Alternative Drug Test List* shall be tested using **both** hair sample and oral fluids sample testing methods.
 - a. Should the inmate lack sufficient hair for testing, fingernail clippings may be collected instead of hair.

VI. **Calibration/Negative Controls/KDOC Drug Detection System**

- A. The expiration date on any of the material used in the drug detection system testing procedure shall not be exceeded. If the date has expired, the test shall be invalid and the test repeated.
- B. Any negative controls and/or calibrations which may be required as a part of the drug detection system testing process shall be made at the beginning of each testing day in accordance with manufacturer's instructions to determine the proper working condition of the test material.

VII. Intoxicant Testing Procedures

- A. When intoxicant testing is ordered, the following procedures shall be followed:
 - 1. Kansas Department of Corrections shall utilize either of the following tests:
 - a. An approved field test; or,
 - b. A digital read out machine, which traps a sample of the person's breath through a plastic tube, inserted into the machine, and after an established time period, produces a read out in percentages.
 - 2. Testing may take place at any location.
 - 3. The information regarding the test shall be logged in a log, which lists the following information:
 - a. Inmate's name;
 - b. Inmate's number;
 - c. Date test was conducted;
 - d. Time test was conducted;
 - e. Result of test; and
 - f. Names of operator and witnesses.
 - 4. Testing shall be conducted by a certified or properly trained operator with documentation of training on file in the operator's training record.
- B. All breath test kits have an expiration date either on the package or on the calibration canister. This date shall not be exceeded. If the date has expired, the test shall be invalid and the test re-conducted.
 - 1. If the facility uses a breath test, which has to be calibrated with a canister, the facility shall arrange to purchase a calibration agent from the State Department of Health and Environment or have the unit calibrated bi-monthly by a local law enforcement agency.

VIII. Disciplinary Action

- A. Pursuant to K.A.R. 44-12-312 (Use of Stimulants), positive test results for drug abuse and/or intoxicants shall result in disciplinary action against the inmate. A refusal to submit to a drug abuse or intoxicants test shall be presumed to be a positive test result..
 - 1. Newly admitted and re-admitted inmates, in the custody of the Department for 14 days or less at the time the random test was administered, shall be exempt from disciplinary action in response to a positive test result.

IX. Reports

- A. All reports concerning drug abuse and/or intoxicants testing shall be made available as soon as possible after the test is performed.
- B. Each facility shall develop General Orders regarding drug and intoxicant testing with specific instructions to staff.

NOTE: The policy and procedures set forth herein are intended to establish directives and guidelines for staff and offenders and those entities that are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees or offenders, or an independent duty owed by the Department of Corrections to employees, offenders, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a Departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are intended to be compliant with all applicable statutes and/or regulatory requirements of the Federal Government and the state of Kansas. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

REPORTS REQUIRED

None.

REFERENCES

K.A.R. 44-12-312
ACI 3-4269

ATTACHMENTS

Attachment A: Drug Test Waiver and Agreement- 1 page

Drug Test Waiver and Agreement

Drug Test Waiver and Agreement

I, _____, Inmate No. _____, have provided a urine /oral fluids sample to Corrections Officer for drug testing. I have tested positive and Disciplinary Report No. _____ has been issued. I have been offered an opportunity for additional testing on the following terms and I accept and agree as follows:

1. I waive any objections that might be raised to the admission of the additional test result in any proceeding including but not limited to: the chain of custody, foundation, subpoena and cross-examination of the technician or chemist, the testing protocol, instrument operation, or any other matter. I agree and stipulate to the admission of the additional test result.
2. I agree to pay \$ _____ the costs of the additional testing including packaging, shipping, analysis, reporting, and any other related expenses, in the event the additional test is positive for drug use. In the event the test is negative, the costs of the additional testing are to be paid by _____ Facility/KDOC.¹
3. I agree that if there are insufficient funds in my account at present, my account will nonetheless be debited and the cost will be collected as soon as funds are available.
4. I agree and understand that any measurable amount of unlawful drug is a violation of KDOC regulations.
5. I agree and request that my disciplinary case be continued until the additional test report is available and I waive any otherwise applicable time limits in this matter.

Done this ____ day of _____, 200__.

Inmate signature and number

Hearing Officer or Witness

¹ As per Section III.A.14.e.[3], I will remain responsible for the costs of the onsite test if I do not have a substantiated psychological or physiological disorder preventing me from producing a urine sample.